



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
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NOV 26 2007

Ms. Coleen H. Sullins  
Director  
Division of Water Quality  
North Carolina Department of Environment and Natural Resources  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

Dear Ms. Sullins:

The Environmental Protection Agency (EPA) has completed its review of North Carolina's revisions to the Surface Water Quality Standards and Stream Classifications rules adopted by the North Carolina Environmental Management Commission (EMC) on March 8, 2007. These revisions, which constitute the 2004 - 2006 Triennial Review for the State, as required by Section 303(c) of the Clean Water Act (CWA), were submitted to the EPA for review by letter dated June 22, 2007, and received on June 26, 2007. The submittal to EPA was accompanied by a letter from the North Carolina Attorney General, dated June 13, 2007, certifying that the rules were adopted following three public hearings in July 2006 and are valid and enforceable in the State of North Carolina as of May 1, 2007. In accordance with the May 2000 changes to EPA's water quality standards regulations contained at 40 CFR § 131.21(d), new and revised state and Tribal water quality standards are not considered effective for CWA purposes until approved by EPA.

The triennial review revisions include new and revised standards in North Carolina Administrative Code (NCAC) Subchapter 02B – *Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina*, as follows:

- Human health updates to North Carolina's standards for toxic substances, including:
  - Updates to the procedures for interpretation of the narrative standard for toxic substances. This includes two modifications to the equations for the calculation of water quality criteria for non-carcinogens, as follows:
    - Use of EPA's new national default value for fish consumption rates; and,
    - The use of Relative Source Contribution (RSC) rather than the previously used Dietary Intake (DI);
  - Updates to the numeric standards for carcinogens based on the latest scientific updates from EPA, including:
    - Revisions or recalculations for aldrin, benzene, carbon tetrachloride, chlordane, DDT, dieldrin, dioxin, heptachlor, hexachlorobutadiene, polychlorinated biphenyls (PCBs), tetrachloroethane, trichloroethylene and vinyl chloride;

- Addition of tetrachloethylene as a carcinogen, and,
- Removal of beryllium as a carcinogen.
- Adoption of the EPA Section 304(a) criteria for tributyltin; and,
- Adoption of enterococci as the indicator organism for coastal areas as required under the Beaches Environmental Assessment and Coastal Health (BEACH) Act.

EPA's review of each of these modifications is enclosed. (Enclosure 1).

Based on EPA's review of the revisions adopted by the State during the triennial review of water quality standards, it is EPA's determination that the revisions to State water quality standards identified above are consistent with the applicable provisions of the Clean Water Act and the requirements of 40 CFR Part 131 and are therefore approved. The one revision to an aquatic life standard, the adoption of the Section 304(a) criteria for tributyltin, is approved subject to the results of consultation under Section 7(a)(2) of the Endangered Species Act (ESA), as discussed in the enclosed review summary.

EPA is approving revisions to the State's water quality standards which comply with the provisions of the BEACH Act, namely revisions to the State's coastal recreation standard to replace fecal coliform with enterococci as the bacteriological indicator. This approved coastal recreation standard includes and incorporates by reference the "Coastal Recreational Waters Monitoring, Evaluation and Notification," regulations (15A NCAC 18A .3400) ("Coastal Recreation Regulations"), which are administered by the North Carolina Division of Environmental Health. (Enclosure 2). EPA finds that these combined provisions, as they are currently drafted and promulgated, meet the minimum requirements of Section 303(i) of the Clean Water Act and the BEACH Act Rule. EPA notes, however, that the standard includes reference to "any subsequent amendments" of the Coastal Recreation Regulations, and therefore it is essential to point out that EPA is specifically not approving any subsequent amendments to the referenced regulations at this time. EPA's approval of this standard is explicitly limited to the current language of this provision and the incorporated regulations as of the date of this approval. Should these regulations be revised or modified in any way, this would be considered a change to standards requiring a review under Section 303(c) of the Clean Water Act. Therefore, any amendments to the Coastal Recreation Regulations would not be applicable as water quality standards for any Clean Water Act purposes until formally approved by EPA.

With the approval of North Carolina's revised coastal recreation standards, action can be initiated to remove North Carolina from the November 16, 2004, EPA rulemaking (69 Fed. Reg. 67217 – 67243), which promulgated the federally designated water quality criteria in all coastal recreational waters for all states which did not have such requirements (the "BEACH Act Rule"). By copy of this letter, EPA Region 4 is notifying EPA Headquarters of the approval of North Carolina's BEACH Act provisions, and requesting the removal of North Carolina from the federal promulgation.

During the triennial, the State conducted a review of the variances to water quality standards for Blue Ridge Paper Products, Mount Olive Pickle Company (Mount Olive) and Bay Valley Foods. EPA and the State are currently conducting a comprehensive review of the Blue Ridge Paper Product's variance concurrent with the National Pollutant Discharge Elimination System (NPDES) permit reissuance process. Final decisions on the continuation of the variance will be made once the review is complete. Mount Olive and Bay Valley Food's comprehensive reviews were completed in 2006 taking into account all new information available. The review supported a continuation of these variances, as detailed in EPA's approval letter dated April 23, 2006.

The Division of Water Quality and, in particular, Connie Brower of the Classification and Standards Unit, are to be commended for conducting an excellent technical review of the State's water quality standards program and submittal of a complete and timely package for review. During this triennial, your staff made an outstanding effort to include stakeholders and the general public in the development and review of revised water quality standards. EPA notes that more than 18 meetings were held for various stakeholder groups in anticipation of the revisions. Three public hearings were held in geographically diverse locations across the State to facilitate maximum public input. North Carolina continues to exemplify the model for effective consultation with the public and the U.S. Fish and Wildlife Service. It was apparent that this coordination enhanced the outcome of the final triennial review package.

Thank you again for your Division's continuing efforts to protect and enhance the quality of North Carolina's waters. If you have any questions regarding this review, please call me or have your staff contact Lisa Perras Gordon at (404) 562-9317.

Sincerely,

A handwritten signature in black ink, appearing to read "Dee Giattina".

James D. Giattina, Director  
Water Management Division

Enclosures (2)

Connie Brower, NC DWQ  
Jeff Manning, NC DWQ  
Alan Clark, NC DWQ  
J.D. Potts, Division of Environmental Health, NC DENR  
Lars Wilcut, U.S. EPA